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(R-88-2574)

RESOLUTION NUMBER R-271115

ADOPTED ON JUNE 6, 1988

WHEREAS, on May 12, 1988, the Planning Commission of The City of San Diego approved Planned Commercial Development Permit No. 88-0246, submitted by Oliver-McMillan, Inc./Odmark Partnership, Owner/Permittee, for the Hillcrest mixed-use complex/Sears, described as all of Blocks 186 and 187, and portions of Blocks 182 and 183 of University Heights, according to amended Map No. 650; a portion of University Avenue, portions of Hendricks Avenue, portions of Vermont Street, portions of Tenth Street, portions of Cleveland Avenue; and a triangular lot in Pueblo Lot 1117 according to Miscellaneous Map No. 36, located at the northwest corner of Cleveland Avenue and Richmond Street, south of Washington Street, in the Uptown Community Plan area, in the C (Commercial) Zone and the PCO (Pedestrian Commercial Overlay) Zone; and

WHEREAS, the matter was set for public hearing on June 6, 1988, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that this Council adopts the following findings with respect to Planned Commercial Development Permit No. 88-0246:

1. The proposed use will fulfill an individual and/or community need and will not adversely affect the General Plan or the Uptown Community Plan. The project will provide a mixed-use, pedestrian-oriented facility combining neighborhood-oriented retail uses with high density residential uses and a public community center. This is the type of project encouraged by the Uptown Community Plan within this transportation corridor.

2. The proposed use, because of the conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area and will not adversely affect other property in the vicinity. The project will provide adequate off-street parking, two traffic signals, ample landscaping within and surrounding the project, new sidewalks, and other site improvements deemed necessary to mitigate any potential detrimental impacts resulting from the proposed use.

3. The proposed use will comply with the relevant regulations in the San Diego Municipal Code. The project complies with all requirements of the existing C (Commercial) Zone, the PCO (Pedestrian Commercial Overlay) Zone, the planned commercial development ordinance and fulfills all other relevant regulations in the San Diego Municipal Code.


The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that Planned Commercial Development Permit No. 88-0246 is hereby granted to Oliver-McMillan, Inc./Odmark Partnership, Owner/Permittee, under the terms and

conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: JOHN W. WITT, City Attorney

By

  
Frederick C. Conrad  
Chief Deputy City Attorney

FCC:ta  
06/23/88  
Or.Dept:Clerk  
R-88-2574  
Form=r.permit

PLANNED COMMERCIAL DEVELOPMENT PERMIT NO. 88-0246

CITY COUNCIL

This Planned Commercial Development Permit ("Permit") is granted by the Council of The City of San Diego to Oliver-McMillan, Inc./Odmark Partnership, ("Owner/Permittee"), pursuant to Section 101.0910 of the Municipal Code of The City of San Diego ("Code").

1. Permission is granted to Owner/Permittee to construct a planned commercial development located at the northwest corner of Cleveland Avenue and Richmond Street, south of Washington Street, in the Uptown Community Plan, described as all of Blocks 186 and 187, and portions of Blocks 182 and 183 of University Heights, according to amended Map No. 650; a portion of University Avenue, portions of Vermont Street, portions of Cleveland Avenue; portions of Tenth Avenue; and a triangular lot in Pueblo Lot 1117 according to Miscellaneous Map No. 36.

2. The facility shall consist of the following:

a. Approximately 140,000 square feet of retail center uses including a 42,500-square-foot market/grocery store and approximately 97,500 square feet of retail and restaurant uses.

b. A residential component consisting of a total 320 attached multi-family residential dwelling units incorporating approximately 17 studios, 10 two-story loft units, 20 townhouse units, 78 one-bedroom units, and 195 two-bedroom units. Up to a maximum 50 additional units shall be permitted subject to an amendment to this Permit and consistent with Permit Condition No. 51.

c. A community center of approximately 3,000 square feet.

d. Off-street parking.

e. Accessory uses as may be determined incidental and approved by the Planning Director.

3. No fewer than 1,057 off-street vehicle parking spaces shall be maintained on the property in the approximate location shown on Exhibit "A," dated June 6, 1988, on file in the office of the Planning Department. Parking spaces shall be consistent with Division 8 of the Code and shall be permanently maintained and not converted for any other use. Parking spaces and aisles shall conform to Planning Department standards. Parking areas shall be marked. At least 100 parking spaces shall be available for guest parking, which may include adjacent curb parking.

4. No fewer than 25 motorcycle parking spaces and 130 bicycle rack spaces shall be maintained on the property and shall be conveniently dispersed throughout the project. Motorcycle spaces shall have minimum dimensions of three feet wide by eight feet deep.

5. No Permit for occupancy of any facility shall be granted nor shall any activity authorized by this Permit be conducted on the premises until:

a. The Permittee signs and returns the Permit to the Planning Department.

b. The Permit is recorded in the office of the County Recorder.

6. Before issuance of any building permits for any building, complete grading and building plans shall be submitted to the Planning Director for approval for such building. Plans shall be in substantial conformity to Exhibit "A," dated June 6, 1988, on file in the office of the Planning Department. No change, modifications or alterations shall be made unless appropriate applications, findings of substantial conformance or amendment of this Permit shall have been granted, provided however with respect to a proposed photo finishing outlet with drive-up, an alternative location may be approved by the Planning Director without an amendment.

7. Any amendment(s) to this Permit shall be considered by the Planning Director or designated representative at a noticed public hearing in accordance with Section 101.0910 of the Code.

8. Before issuance of any building permits, a complete and detailed landscape plan, including a permanent irrigation system, shall be submitted to the Planning Director for approval. The plans shall be in substantial conformity to Exhibit "A," dated June 6, 1988, on file in the office of the Planning Department. Approved planting shall be installed before issuance of any occupancy permit on any building. Such planting shall not be modified or altered unless this Permit has been amended and is to be maintained in a disease, weed and litter free condition at all times.

9. All outdoor lighting shall be so shaded and adjusted that the light is directed to fall only on the same premises as light sources are located.

10. Refuse collection areas shall not be located in any front, side or street yard, and shall be screened from public view by a solid masonry wall with a minimum height of six feet.

11. The effective date of this Permit shall be the date of final action following all appeal dates and proceedings. The Permit must be utilized within 36 months after the effective date. Failure to utilize the Permit within 36 months will automatically void the Permit unless an extension of time has

been granted by the Planning Director, as set forth in Section 101.0910.M. of the Code. Any such extension of time must meet all the Code requirements and applicable guidelines in effect at the time the extension is considered by the Planning Director.

12. Construction and operation of the approved use shall comply at all times with the regulations of this or any other governmental agencies.

13. The property included within this Planned Commercial Development shall be used only for the purposes and under the terms and conditions set forth in this Permit unless authorized by the Planning Director or the Permit has been revoked by The City of San Diego.

14. This Permit may be cancelled or revoked if there is any material breach or default in any of the conditions of this Permit. Cancellation or revocation may be instituted by The City of San Diego or Permittee.

15. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out.

16. There shall be a deed restriction running with the subject property, binding upon the Permittee and any successor or successors, requiring that the property be used only for the purposes and under the terms and conditions set forth in a permit, or an equivalent permit issued by The City of San Diego subsequent to a noticed public hearing.

17. Before issuance of any building permits, a complete sign plan shall be submitted to the satisfaction of the Planning Director.

18. This Planned Commercial Development may be developed in phases provided, however, that phasing shall be limited as follows:

a. The building permit for the market shall not be issued until building permits have been applied for all other commercial structures.

b. The market shall not be opened for business until building permits have been issued and substantial construction defined as building inspection approval of footings has occurred on all other commercial buildings.

c. The commercial structures for which there is a residential use on the upper level as shown on Exhibit "A," dated June 6, 1988, shall not be opened for business prior to the issuance of occupancy permits for that upper level residential use.

19. Each phase shall be constructed prior to the sale or lease to individual owners or tenants to ensure that all development is consistent with conditions and exhibits submitted to and approved by the Planning Director.

20. If any existing hardscape or landscape indicated on the approved plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind per the approved plans.

21. Prior to issuance of any residential unit building permits, the developer shall submit an acoustical engineering study for review and approval by the City's Noise Abatement and Control Office. The acoustical study would recommend specific construction techniques to be incorporated into the construction of the affected units to reduce interior noise levels below 45 decibels CNEEL.

22. The developer shall implement a striping plan for University Avenue, Cleveland Avenue and Richmond Street, as approved by the Engineering and Development Department, Transportation and Traffic Engineering Division.

23. The developer shall be required to obtain appropriate clearances from all the concerned public utilities and franchised facilities companies prior to issuance of any buildings permit(s).

24. The developer shall provide the necessary easements for the existing facilities to remain and/or the satisfactory removal/relocation of said facilities prior to issuance of any building permit(s).

25. The developer shall provide for and secure the filing of a consolidation map or other appropriate map to eliminate the landlocked parcels which will exist upon vacation of the rights-of-way prior to issuance of any building permit(s). The approval of the map should be conditioned upon the issuance of permits for the public improvements to be constructed across Cleveland Avenue at Vermont Street and transition curb, gutter, and sidewalk construction adjacent to the vacated area along University Avenue between Tenth Avenue and Vermont Street, satisfactory to the Planning Director and the City Engineer.

26. Future development of the project site, other than that permitted by Planned Commercial Development Permit No. 88-0246, shall require the submittal of detailed plans for Planning Director conformance review with this Permit prior to issuance of any building permits.

27. The applicant shall relocate the existing curb and sidewalk on University Avenue between Tenth Avenue and Vermont Street providing two through-lanes, a double west-to-south turn pocket at Tenth Avenue or other suitable alternative to channelize to the Route 163 overcrossing in a manner satisfactory to the Planning Director and the City Engineer.

28. The applicant shall provide additional dedication for Tenth Avenue to assure 40 feet of curb-to-curb paving plus a minimum ten-foot sidewalk which may include a ten-foot setback from property line to structure on the east side of Tenth Avenue, north of University Avenue. This right-of-way shall terminate at a location satisfactory to the City Engineer, providing a standard driveway opening for the shopping center.

29. The location of the driveway opposite Cleveland Avenue and Vermont Street shall be determined to the satisfaction of the Engineering and Development Department Transportation and Traffic Engineering Division.

30. The applicant shall construct curb, sidewalk, and additional pavement as necessary across the vacated right-of-way for Cleveland Avenue and Vermont Street, satisfactory to the City Engineer, providing a standard driveway opening on the west side of Vermont Street and modifying the curb returns at the northerly terminus of Vermont Street.

31. The subdivider shall design and construct traffic signal systems at the following locations satisfactory to the City Engineer:

- a. University and Tenth Avenue.
- b. University and Vermont Street.

32. The proposed driveway from Richmond Street southerly of Washington Street shall be 26-feet-wide, providing a turning radius suitable for trucks. Parking along this driveway will require additional width as necessary.

33. Water Requirements:

a. Replace the cast-iron water mains in Vermont Street, Richmond Street and Cleveland Avenue with 12-inch water mains, satisfactory to the Water Utilities Director. The developer will be reimbursed for design and construction of mains that are replacing existing City mains.

b. Provide a system of on-site looping water mains with adequate easements, satisfactory to the Water Utilities Director.

c. Install fire hydrants at locations satisfactory to the Fire Department and to the City Engineer.

34. Sewer Requirements:

a. The subdivider shall provide a sewer study, satisfactory to the Water Utilities Director, for the sizing of gravity mains serving this development and to show that the grade of the sewer mains will provide adequate capacity and cleansing velocities.

b. Install all facilities required by the City Engineer. The developer will be reimbursed for the design and construction of facilities required to replace or upgrade existing City facilities.

35. Prior to the issuance of building permits, Permittee shall record a deed restriction providing for an approximately 3,000-square-foot community center as shown on Exhibit "A," dated June 6, 1988. Said community center shall be constructed, maintained and operated by the Permittee. The primary purpose of the community center shall be to serve the passive recreational and social needs of the Uptown Community.

a. The community center shall operate pursuant to rules and regulations specifying hours of operation, use of the center and other matters as reasonably and appropriately necessary to implement the purpose thereof. Such rules shall be as annually approved by the City Council based upon the recommendation of the Uptown Planning Group, the Park and Recreation Board (including appropriate committees thereof), Hillcrest Association, University Heights Community Association, Middletown Property Owners Association and other community and civic organizations.

b. Said deed restriction shall be in a form approved by the City Attorney.

36. Prior to the issuance of building permits, an irrevocable offer to dedicate a pedestrian access easement of not less than ten feet if adjacent to a travel way or fifteen feet if not shall be recorded for purposes of serving a future Vermont Street pedestrian bridge. The exact location shall be approved by the Planning Director and City Engineer. The irrevocable offer shall provide for the recording of an appropriate easement upon written request from The City of San Diego in the event the City proceeds with the reconstruction of the Vermont Street pedestrian bridge.

37. Permittee shall provide enhanced paving at the locations shown on Exhibit "A," dated June 6, 1988, on file with the Planning Department, with final design and materials to be approved by the Planning Director and City Engineer.

38. Before issuance of any grading or building permits, the following shall be submitted to the Planning Director for approval. Submitted plans shall be in substantial conformity to Exhibit "A," dated June 6, 1988:

a. A fully dimensioned site plan including the location of security fencing and all other elements required by this Permit.

b. Elevations of representative facades at a scale of one-eighth-inch = one-foot, specifically including but not limited to all elevations of the market, the

north elevation of the parking structure and loft structure, a typical residential corridor elevation, the north elevation of the community center, and a rear elevation of the townhouses.

c. Floor plans depicting general use of the proposed buildings.

d. A complete parking plan.

e. Fully dimensioned representative cross-sections of the site, including three showing Washington Street, two showing Cleveland Avenue, one showing Richmond Street, one showing University Avenue and one showing Highway 163.

39. There shall be no reduction(s) in available on-street parking except as required by the Engineering and Development Department for restriping pursuant to Permit Condition No. 22, driveway access and the Metropolitan Development Transit Board ("MTDB") for the required bus stop(s).

40. Open space areas within the residential portion of the project shall include permanent planters, enhanced paving and exterior furnishings such as benches and fountains; and architectural elements such as arches, the location and design of which shall be approved by the Planning Director.

41. The exterior plaza and sidewalk areas within the commercial portion of the project, and in particular in the area of the community center, shall include street furnishings such as benches, tables and trash containers, the location and design of which shall be approved by the Planning Director.

42. Bus stop(s) with bus shelters (as required by MTDB) shall be provided on the northwest and southwest corners of University Avenue and Vermont Street. A 65-foot red curb section shall be provided on the University Avenue frontage, northwest corner of the University Avenue and Vermont Street intersection. The location(s) and design of the bus shelters shall be approved by the MTDB and Planning Director.

43. Ongoing maintenance to the bus shelters described above (Permit Condition No. 43) shall be the responsibility of the Permittee or any successor or successors.

44. The Permittee shall not oppose the formation of an Uptown Transit Assessment District, if and when it is instituted. The cost of transit improvements required by this Permit shall be deducted from any future assessment.

45. Decorative street lighting similar in style to the existing street lights shall be provided at approximately 100-foot intervals on University Avenue, Cleveland Avenue, Richmond Street and the extension of Vermont Street to Washington Street.

46. Ground floor commercial space shall be limited to the following permitted uses:

Art stores and art galleries  
Bakeries  
Branch bank or financial institution  
Bookstores  
Confectioneries  
Drug stores  
Dry cleaning establishments and laundries (excluding self-service laundries)  
Florists  
Food stores  
Hardware stores  
Liquor stores  
Music stores  
Photographic studios and retail outlets  
Restaurants (excluding drive-in and drive-thru restaurants)  
Shoe repair shops  
Sporting goods stores  
Stationers  
Variety stores  
ATM  
Barber shops  
Beauty shops/nail salons  
Clothing stores  
Copy shops/printer  
Speciality food  
(Pizza/hamburgers/Chinese/Mexican/deli/ice cream/yogurt donut/bagels/etc.)  
Federal express outlet  
Furniture & home appliances, furnishings & accessories  
Gift stores  
Health spas/fitness centers  
Insurance  
Jewelers  
Luggage & leather  
Office supply stores  
Pet stores  
Phone stores  
Private postal facilities  
Radio/stereo/electronic equipment stores  
Real estate brokerage  
Schools/educational  
Travel agents  
Weight reduction centers  
Video rentals;

All "upper level" uses specified in Permit Condition No. 47 below and; any other use which the city Council may find to be similar in character to the use listed above.

47. Upper level spaces designated for commercial uses shall be limited to the following permitted uses:

Apartment or condominiums  
Business, professional and medical offices  
Photographic studios  
Gyms, when equipped for physical fitness activities  
Restaurants  
Theaters  
Agencies for tickets and travel  
Studios for teaching art, music and dance  
Art galleries  
Private clubs, fraternal orders and lodges  
Hotels  
Advertising, secretarial and telephone answering services  
Medical and dental laboratories and;

Any other use which the Planning Commission may find to be similar in character to the uses listed above.

48. The ten "loft units" identified on Exhibit "A," dated June 6, 1988, on file with the Planning Department, are intended to be occupied by artists, artisans and similarly situated individuals. Use of the loft units shall be limited as follows:

a. Each loft unit shall be separated by a solid wall from other loft units or other uses in the building and access to loft units shall be provided only from common access areas, halls or corridors.

b. Not less than 20 percent of the floor area of each loft unit shall be used or devoted to residential purposes such as a sleeping area, kitchen, bathroom and closet areas.

c. The minimum area of a loft unit shall be 750 square feet.

d. Persons other than residents of loft units shall not be employed or permitted to work in that loft unit.

e. Loft units shall not be used for mercantile except to sell wares produced on the site, classroom instructional usage, storage of flammable liquids or hazardous materials, welding or any open flame work, offices or establishments with employees.

49. Fire Requirements:

a. Fire hydrants shall be provided to City of San Diego specifications.

b. Fire access shall be provided per Policy A85.3.

c. Fire Department connections for sprinklers and standpipes shall be provided on the addressed streets, if needed.

d. If access for emergency vehicles is directed over underground parking, such access shall be constructed to carry a minimum 70,000 pound load capacity.

50. Any amendment(s) of this Permit shall provide a fire access plan, indicating all major fire department access drives and fire lanes, satisfactory to the City Fire Department and the Planning Director.

51. Up to 50 additional dwelling units shall be permitted by amendment to this Permit subject to the following:

a. The units shall be located over the parking area easterly of the market as shown on Exhibit "A," dated June 6, 1988, on file in the office of the Planning Department.

b. Parking shall be provided at a minimum ratio of 1.7 spaces per dwelling unit or as required by the applicable City parking ordinance, whichever is greater.

c. The structures shall be similar in style and character to the structures authorized by this Permit.

52. Public access shall be provided to the landscaped area southerly of the recreation center and to the three pathways joining this portion of the site to the commercial area, Richmond Street and Cleveland Avenue.

53. At least 16,000 square feet of private exterior usable open space, as defined by the City Zoning Code, shall be provided. Not all dwelling units are required to have access to private exterior usable open space.

54. All utility locations shall be subject to approval by the Planning Director.

55. In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable or unreasonable, this Permit shall be void.

PASSED AND ADOPTED by the City Council on June 6, 1988.

STATE OF CALIFORNIA )  
 )  
COUNTY OF SAN DIEGO ) ss.

On this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, before me, the undersigned, a Notary Public for the State of California, personally appeared CHARLES G. ABDELNOUR, known to me to be the City Clerk of The City of San Diego, the municipal corporation that executed the within instrument, and known to be the person whose name is subscribed to the within instrument, as a witness thereto, who, being by me duly sworn, deposes and says that he was present and saw ED STRUIKSMA, known to him to be the Immediate Past Deputy Mayor, Presiding Officer, and known to him to be the person who executed the within instrument on behalf of the municipal corporation therein named, and acknowledged to me that such municipal corporation executed the same, and that said affiant subscribed his name to the within instrument as a witness.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in the County of San Diego, State of California, the day and year in this certificate.

(SEAL)

\_\_\_\_\_  
Notary Public in and for the County  
of San Diego, State of California

R-271115

AUTHENTICATED BY:

MAUREEN O'CONNOR, Mayor  
The City of San Diego

CHARLES G. ABDELNOUR, City Clerk  
The City of San Diego

ED STRUIKSMA, Immediate Past Deputy Mayor  
Presiding Officer

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF SAN DIEGO )

On this \_\_\_\_\_ day of \_\_\_\_\_, 198\_\_\_\_, before me, the undersigned, a notary public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared CHARLES G. ABDELNOUR, known to me to be the City Clerk of The City of San Diego, the municipal corporation that executed the within instrument, and known to me to be the person whose name is subscribed to the within instrument, as a witness thereto, who being by me duly sworn, deposes and says that he was present and saw MAUREEN O'CONNOR, known to him to be the Mayor of The City of San Diego, and known to him to be the person who executed the within instrument on behalf of the municipal corporation therein named, and acknowledged to me that such municipal corporation executed the same, and that said affiant subscribed his name to the within instrument as a witness.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in the County of San Diego, State of California, the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public in and for the County  
of San Diego, State of California

The undersigned Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Permittee hereunder.

OLIVER-MCMILLAN, INC./ODMARK PARTNERSHIP  
(Permittee)

By \_\_\_\_\_

By \_\_\_\_\_

NOTE: Notary acknowledgments  
must be attached per Civil  
Code Section 1180, et seq.

5409.3

JUN 06 1988

Passed and adopted by the Council of The City of San Diego on .....  
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR  
Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.

By Rhonda B. Barnes, Deputy.

Office of the City Clerk, San Diego, California

Resolution Number R-271115 Adopted JUN 06 1988

RECEIVED  
CITY CLERK'S OFFICE

1988 JUN 24 AM 11:44

SAN DIEGO, CALIF. *CH*